

REMARKS

Reconsideration of this application is respectfully requested in view of the following remarks.

Claims 1-20 are currently pending in the application and subject to examination.

In the Office Action dated April 4, 2008, the Examiner rejected claims 1-10 and 11-20 under 35 U.S.C. § 103(a) as being unpatentable over Nemoto et al. (U.S. Patent No. 6,422,546 B1, hereinafter "Nemoto"). The Applicant hereby traverses the rejections, as follows.

In making the rejections, the Examiner alleges that Nemoto discloses each and every feature recited in claims 1-20 with the exception of a feature wherein "an active anti-vibration supporting device is prohibited when an abnormality in an operational state of the engine is detected," (*Office Action*, p. 3) recited in claims 1-10, and the feature wherein "a cylinder suspension of the engine is prohibited when an abnormality in an operation state of an active anti-vibration supporting device is detected" (*Office Action*, p. 4) as recited in claims 11-20. The Examiner asserts that "it is well known in the art to have the electronic control unit to be programmable to include a sensor to provide communication to the actuator by shut-off [sic] to prevented [sic] the transition of the vibration of the engine to the vehicle body frame; and to detect the abnormality of the engine." *Office Action*, page 3. The Examiner further asserts that "it is well known in the art to have the electronic control unit to be programmable to include a sensor to provide communication to the actuator by prohibit [sic] the cylinder suspension of the engine when an abnormality in an operational state of an active anti-vibration supporting device is detected." *Office Action*, page 4.

However, Nemoto makes no reference whatsoever to prohibiting operation of an active anti-vibration supporting device when an abnormality in an operational state of the engine is detected, as substantially recited in independent claim 1. Further, Nemoto makes no reference whatsoever to prohibiting cylinder suspension of the engine when an abnormality in an operational state of the active anti-vibration supporting device is detected, as substantially recited in independent claim 11. Moreover, the Examiner has, apparently, been unable to find any documentary evidence for supporting his allegation that such features were “well known in the art” at the time the invention was made, as evidenced by, at least, the Office Actions dated September 7, 2006; March 8, 2007; and April 4, 2008; the responses filed thereto (i.e., Response dated December 7, 2006; and the two (2) Requests for Pre-Appeal Brief Review dated April 19, 2006 and August 8, 2007); and the two (2) Notices of Panel Decision from Pre-Appeal Brief Review dated June 23, 2006; and January 25, 2008.

Hence, the Examiner is again relying on what he presumes to have been “well known in the art” at the time the invention was made without providing documentary evidence to support his presumption.

Moreover, in the outstanding Office Action, the Examiner has not taken proper “Official Notice” regarding the claimed subject matter that is alleged by the Examiner as being “common knowledge.”

The Applicant submits that the subject matter alleged as being “well known in the art” is not, in fact, “well known in the art” in the particular context of the claimed invention, nor at the time the invention was made. Rather, the Applicant submits that the subject matter alleged as being “well known in the art” is based on hindsight

reconstruction using knowledge gleaned only from the Applicant's disclosure as a template, which, as is well known, is impermissible grounds for claim rejection. See, e.g., MPEP § 2141.01 III.

As admitted by the Examiner, Nemoto fails to disclose or suggest at least the features of “wherein operation of said active anti-vibration supporting device is prohibited when an abnormality in an operational state of the engine is detected...” as recited in independent claim 1. As also admitted by the Examiner, Nemoto fails to disclose or suggest at least the features of “wherein the cylinder suspension of the engine is prohibited when an abnormality in an operational state of said active anti-vibration supporting device is detected...” as recited in independent claim 11.

Further, the Examiner has failed to provide any documentary evidence for supporting his allegation that such features were “well known in the art” at the time of the invention. Accordingly, the Applicant submits that claims 1 and 11 are patentably distinct over the applied art of record and in condition for allowance. As claims 1 and 11 are allowable, the Applicant submits that claims 2-10 and 12-20, which depend from allowable claims 1 and 11, respectively, are likewise allowable for at least the reasons set forth above with respect to claims 1 and 11.

For at least these reasons, the Applicant requests withdrawal of the outstanding rejections and the issuance of a Notice of Allowability. Absent a Notice of Allowability, the Applicant requests that the Examiner take proper “Official Notice” of what the Examiner alleges to have been “well known in the art” at the time the invention was made and to provide documentary evidence for supporting his allegation of what was “well known in the art” at the time the invention was made in the next Office Action.

Absent the production of any documentary evidence for supporting the Examiner's allegation of what was "well known in the art" at the time the invention was made, i.e., should the Examiner decide to rely solely on "personal knowledge," the Applicant requests that the Examiner provide an executed affidavit or declaration setting forth specific factual statements from his personal knowledge and an explanation to support his assertion of what was "well known in the art" at the time the invention was made, as required by 37 CFR § 1.104(d)(2).

As set forth above, the Applicant submits that claims 1-20 are allowable over the applied art of record. Accordingly, reconsideration and withdrawal of the outstanding rejections and an issuance of a Notice of Allowance are earnestly solicited.

Should the Examiner determine that any further action is necessary to place this application into better form, the Examiner is requested to contact the undersigned representative at the telephone number listed below.

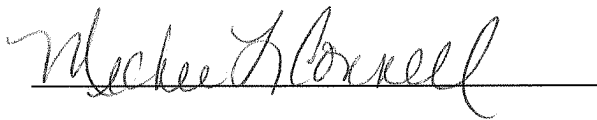
In the event this paper is not considered to be timely filed, the Applicants hereby petition for an appropriate extension of time. The fee for this extension may be charged to our Deposit Account No. 01-2300. The Commissioner is hereby authorized to charge

any fee deficiency or credit any overpayment associated with this communication to

Deposit Account No. 01-2300, referencing docket no. 107348-00393.

Respectfully submitted,

Arent Fox, LLP

A handwritten signature in cursive script, reading "Michele L. Connell", written over a horizontal line.

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